IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Alexander, III et al.**	§	Group Art Unit: **2191**
	§	
Serial No. **10/777,909**	§	Examiner: **Rampuria, Satish**
	§	
Filed: **February 12, 2004**	§	Confirmation No.: **6082**
	§	
For: **Method and Apparatus for Removal of Asynchronous Events in Complex Application Performance Analysis**	§	Attorney Docket No.: **AUS920030825US1**

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PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Commissioner for Patents
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REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on March 19, 2009.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

Claims 1 and 4-8 stand finally rejected under U.S.C. § 103(a) as being unpatentable over Alexander, III et al., U.S. Patent No. 6,338,159 ("Alexander"), in view of Kazi et al., "JaViz: A client/server Java profiling tool" ("Kazi"). Claim 1 on appeal is as follows:

> 1. A method, in a data processing system, for generating a minimized call tree data structure from trace data obtained from a plurality of executions of a computer program, comprising:
>
> obtaining a plurality of call tree data structures corresponding to the trace data for the plurality of executions of the computer program;
>
> generating a minimized call tree data structure from the plurality of call tree data structures, wherein the minimized call tree data structure includes a minimum set of nodes that are consistent between the plurality of call tree data structures; and
>
> outputting the minimized call tree data structure.

In the Appeal Brief filed December 9, 2008, Appellants asserted that Alexander in view of Kazi did not teach or suggest "obtaining a plurality of call tree data structures corresponding to the trace data for the plurality of executions of the computer program", or "generating a minimized call tree data structure from the plurality of call tree data structures, wherein the minimized call tree data structure includes a minimum set of nodes that are consistent between the plurality of call tree data structures."

With respect to the claim limitation "obtaining a plurality of call tree data structures corresponding to the trace data for the plurality of executions of the computer program", Appellants asserted, in part, that Alexander is directed to providing trace information in connection with a single execution of a long running program, and does not disclose or suggest obtaining a plurality of call tree data structures corresponding to the trace data for the plurality of executions of the computer program as recited in claim 1.

In responding to Appellants' argument that Alexander discloses a single execution of a long running program, the Examiner states as follows:

> Examiner respectfully disagrees. Alexander discloses profiling the performance characteristics of long running programs/applications (col. 2, lines 56-57; col. 6, lines 50-55; col. 6, lines 60-65); note here Alexander uses the word programs as plural form which represents one or more programs, thus the tracing is performed on a plurality of programs execution.

Examiner's Answer filed March 19, 2009, page 11.

Appellants respectfully submit that the Examiner has misinterpreted Alexander. The clear meaning of the word "programs" in plural form in Alexander is that the performance characteristics of different long running programs may be profiled. There is no teaching or any basis for assuming that the word "programs" means that Alexander teaches obtaining trace data for a plurality of executions of the same program as required by claim 1. The normal meaning of the word "programs" as well as the overall disclosure in Alexander clearly indicates otherwise.

Therefore, Appellants continue to submit that Alexander does not teach or in any way suggest "obtaining a plurality of call tree data structures corresponding to the trace data for the plurality of executions of the computer program" as recited in claim 1.

With respect to Appellants' argument that Alexander does not disclose or suggest the claim limitation "generating a minimized call tree data structure from the plurality of call tree data structures, wherein the minimized call tree data structure includes a minimum set of nodes that are consistent between the plurality of call tree data structures", the Examiner responds on page 9 of the Examiner's Answer by referring to col. 2, lines 15-27 of Alexander, reproduced below:

> Accordingly, the present invention is directed to a system, method, and computer readable medium for representing program event trace information in a way which is very compact and efficient, and yet supports a wide variety of queries regarding system performance. The tracing and reduction of the present invention may be dynamic, in which case information is obtained in real-time, as each event occurs, and is automatically reduced and added to the trace representation. Alternately, the tracing and reduction of the present invention may be static, in which case a trace text file or binary file is obtained from a trace buffer, and the reduction takes place using the trace file as input.

The Examiner apparently construes the phrase "the tracing and reduction of the present invention" as a teaching of minimizing a call tree data structure.

Appellants respectfully disagree. The term "reduction" as used in Alexander relates to reducing a long trace (that may be millions of entries long) into a smaller trace (see, for example, column 1, line 61- column 2, line 12 of Alexander). Alexander is unrelated to generating a minimized call tree data structure.

Therefore, Appellants continue to submit that Alexander also does not teach or suggest "generating a minimized call tree data structure from the plurality of call tree data structures,

wherein the minimized call tree data structure includes a minimum set of nodes that are consistent between the plurality of call tree data structures."

CONCLUSION

For the reasons indicated above, as well as for the reasons set forth in the Appeal Brief filed December 9, 2008, the Examiner has failed to establish a *prima facie* case of obviousness in rejecting claims 1 and 4-8, and it is respectfully requested that the Board reverse the Examiner's Final Rejection of those claims.

Date: April 16, 2009

Respectfully submitted,

/Gerald H. Glanzman/

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